

November 14, 2007

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E0601101**

**MARK E. MCGREEN**  
Code Enforcement Appeal

Location: 36816 – 320th Avenue Southeast

Appellant: **Mark E. McGreen**  
16407 Renton-Issaquah Road  
Renton, Washington 98059  
Telephone: (253) 686-0548

King County: Department of Development and Environmental Services (DDes)  
*represented by* **Jeri Breazeal**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-7264  
Facsimile: (206) 296-6644

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:	Deny the appeal and provide time limits for obtaining land use approvals and permits
Department's Final Recommendation:	Deny the appeal and provide time limits for obtaining land use approvals and permits
Examiner's Decision:	Grant the appeal (in part), Deny the appeal (in part), and provide modified time limits for obtaining land use approvals and permits

**ISSUES/TOPICS ADDRESSED:**

Construction of a residential structure without required permits, and within sensitive areas and buffers.

**SUMMARY OF DECISION:**

The property owner's appeal of portions of a notice of code violation is granted. The appeal of notice of code violation for construction without permits and within sensitive areas and buffers is denied. Time limits are set for obtaining all required permits or demolishing the structure and removing all demolition debris.

**EXAMINER PROCEEDINGS:**

Hearing opened: November 7, 2007  
Hearing closed: November 7, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

1. On July 25, 2007, the King County Department of Development and Environmental Services issued a notice of King County code violation, civil penalty order, abatement order, notice of lien, duty to notify ("Notice and Order") to Mark McGreen. The property subject to the Notice and Order is located at 36816 – 320th Avenue Southeast (Cumberland) in unincorporated King County. Mark McGreen is the owner of the subject property.

The Notice and Order alleged violation of the King County Code for construction of a residence and installation of an illicit discharge into King County waters (Cold Creek) without required permits, inspections and approvals; clearing and grading within critical areas without required permits; accumulation of inoperable vehicles and vehicle parts; parking/storage of vehicles on unimproved surfaces; accumulation of rubbish, salvage and debris; and operation of a contractors storage yard.

2. A timely appeal of the Notice and Order was filed by Mark McGreen on August 10, 2007. The statement of appeal asserts that there is no illicit discharge of waters; little if any clearing and grading was done; no inoperable vehicles are on the site; no garbage or debris is on the site; and no contractors storage yard was operated from the site.
3. A stop work order was issued by King County with respect to construction of the residence without required permits. The appellant complied with the stop work order, and there was no appeal of that order. The appellant admits that construction of the residence took place without required permits. He requests that time be allowed for him to obtain permits necessary to legalize and complete the residence.
4. The evidence provided at the hearing shows that there is not currently a discharge from the property into Coal Creek. Barrels on the property provide an exterior water source for the property. Other debris and rubbish appears to be related to the construction of the residence,

which has been stopped pursuant to the “stop work” order. DDES testified that the appellant is not currently operating a construction storage business on the subject property.

There was no evidence produced of inoperable vehicles on the site, or of vehicles parked on unimproved surfaces.

5. DDES recommends that the appellant proceed in a timely manner to follow the necessary steps to obtain all necessary permits, inspections and approvals for the residence constructed on the site. The appellant has obtained a surveyed topographic map of the site, which is an initial requirement for obtaining a critical areas designation (“CAD”) by King County. Application for a CAD is the first step in the process to obtain a building permit for the structure. Additional steps include approvals from the King County Health Department for a potable water source and septic system; and DDES sensitive areas review and approvals for the building site. DDES recommends one month increments for each step in the process.

#### CONCLUSIONS:

1. The appeal of the subject notice and order should be GRANTED in part and DENIED in part.
2. The allegations of accumulation of inoperable vehicles and vehicle parts; and parking/storage of vehicles on unimproved surfaces should be DISMISSED.

The allegation of accumulation of assorted rubbish, salvage and debris should be DISMISSED.

The allegation of operation of a contractor storage yard should be dismissed.

3. The appeal of the allegations concerning construction of a residence without required permits, inspections and approvals; and grading within critical areas and their associated buffers, should be DENIED.
4. The appellant should be granted a reasonable time to obtain the required permits and approvals, if they can be obtained in compliance with applicable King County codes and King County Health Department rules and regulations. If the required permits and approvals cannot be obtained within the time limits allowed (or any extensions granted by DDES), a reasonable period of time should be allowed to demolish the structure and remove all demolition debris from the site.
5. In consideration of the appellant’s testimony of financial hardship, the extended period of time that has elapsed since the December 13, 2006 pre-application meeting, the progress that has been made by the appellant in obtaining a topographic map of the site, and the department’s recommendation for one month increments between required steps in the permitting process, the Examiner concludes that the appellant should be allowed:

One month to initiate an application for critical areas designation of the site;

Two months from the date of issuance of a CAD by DDES to commence the application process for King County Department of Health approvals of a potable water supply and septic system

(with not more than six months to be allowed for the submission of a septic system design following the approval of a potable water source).

Upon approval by the Health Department of a potable water source and preliminary septic system design, the appellant shall be allowed four months to submit a complete application or applications (as required) for sensitive area, building and grading permits.

6. In the event the foregoing deadlines are not met (or extended by DDES), or any of the permits required for the residence constructed on the site are denied, the appellant shall be allowed 60 days to apply for a demolition permit, and 120 days from the issuance of a demolition permit to complete the demolition and remove all demolition debris from the site.
7. The penalties set forth in the Notice and Order for violation nos. 1 and 2 are affirmed. The penalties for alleged violations 3, 4 and 5 are cancelled. The penalties affirmed shall accrue from the expiration of the time periods allowed by this decision to achieve compliance with the King County Code (subject to any extensions that may be granted by DDES).
8. In all respects not specifically modified by this decision, the July 25, 2007 Notice and Order is affirmed.

ORDERED this 14th day of November, 2007.

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James N. O'Connor  
King County Hearing Examiner *pro tem*

TRANSMITTED via certified mail this 14th day of November, 2007, to the following parties:

Mark E. McGreen  
16407 Renton-Issaquah Road  
Renton, Washington 98059

TRANSMITTED this 14th day of November, 2007, to the following parties and interested persons of record:

Mark E. McGreen  
16407 Renton-Issaquah Rd.  
Renton WA 98022

Mark E. McGreen  
36816 - 320th Ave. SE  
Enumclaw WA 98022

Deidre Andrus  
DDES/LUSD  
MS OAK-DE-0100

Jeri Breazeal  
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Toya Williams  
DDES/LUSD  
MS OAK-DE-0100

### NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

### MINUTES OF THE NOVEMBER 7, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0601101.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Jeri Breazeal, representing the Department, and Mark E. McGreen, the Appellant.

The following Exhibits were offered and entered into the record:

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|---------------|---|
| Exhibit No. 1 | DDES staff report to the Hearing Examiner for November 7, 2007              |
| Exhibit No. 2 | Copy of the Notice & Order issued July 25, 2007                             |
| Exhibit No. 3 | Copy of the Notice and Statement of Appeal received August 10, 2007         |
| Exhibit No. 4 | Copies of codes cited in the Notice & Order                                 |
| Exhibit No. 5 | Fourteen pages of photographs of subject property                           |
| Exhibit No. 6 | Copies of aerial photo and GIS maps showing sensitive areas on the property |

JNOC:gao  
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